

BRIAN E. FROSH
Attorney General



ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

FACSIMILE NO.

WRITER'S DIRECT DIAL NO.

410-576-6584

February 10, 2021

TO: The Honorable Luke Clippinger
Chair, Judiciary Committee

FROM: Brian E. Frosh, Attorney General

RE: [HB0848](#) – Small Claims - Examination in Aid of Enforcement - Prohibition on Arrest
or Incarceration for Failure to Appear – Support

Chairman Clippinger, Vice Chair Atterbeary, and distinguished Members of the Judiciary Committee, I am Brian Frosh and I'm here to discuss some unfinished business.

Back in 2013, then-Delegate Clippinger, and then-Judicial Proceedings Chairman Frosh, introduced legislation to eliminate the use of body attachments in small claims matters.¹ Those 2013 bills never made it across the finish line before *sine die*, but I'm hopeful that this year will be different. What we learned over the succeeding years, and what the COVID-19 global pandemic has made clear, is that the use of body attachments to collect civil debt is not only of questionable constitutionality,² but it is also an outdated, unfair, and draconian process that hurts people of limited means and has a significant disparate impact upon people of color. As you'll hear from other witnesses supporting HB 848, only a handful of creditors' attorneys still deploy this harmful tool, often to extract assets that desperate, indigent debtors do not have, try to borrow to stay out of jail, or could be claimed as exempt from garnishment. As my COVID-19

¹ See generally [H.B. 597](#), 2013 Leg., 433d Sess. (Md. 2013); see also [S.B. 418](#), 2013 Leg., 433d Sess. (Md. 2013).

² Article III, Section 38 of the Maryland Constitution provides: "No person shall be imprisoned for debt, but a valid decree of a court of competent jurisdiction or agreement approved by decree of said court for the support of a spouse or dependent children, or for the support of an illegitimate child or children, or for alimony (either common law or as defined by statute), shall not constitute a debt within the meaning of this section." MD. CONST. art. III, § 38; see also *Brown v. Brown*, 287 Md. 273, 281-82 (1980).

Access to Justice Task Force concluded in one of its recommendations for legislative action, this practice can and should end before it harms more Marylanders.³

Chairman Clippinger, I'm proud to rejoin this fight and urge the Judiciary Committee to favorably report HB 848.

cc: Members of the Judiciary Committee

³ See MD. ATT'Y GEN. BRIAN E. FROSH'S COVID-19 ACCESS TO JUST. TASK FORCE, CONFRONTING THE COVID-19 ACCESS TO JUSTICE CRISIS 11, 32 (Jan. 2021), https://www.marylandattorneygeneral.gov/A2JC%20Documents1/AG_Covid_A2J_TF_Report.pdf.